



Compliance Chatter Virtual Meetings

January Session

January 29, 2025

Seyfarth Shaw LLP

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Presenters



Dawn M. Lurie
Senior Counsel
Washington, D.C.



Mahsa Aliaskari
Partner
Los Angeles



John Connolly
Senior Managing Director
Guidepost Solutions

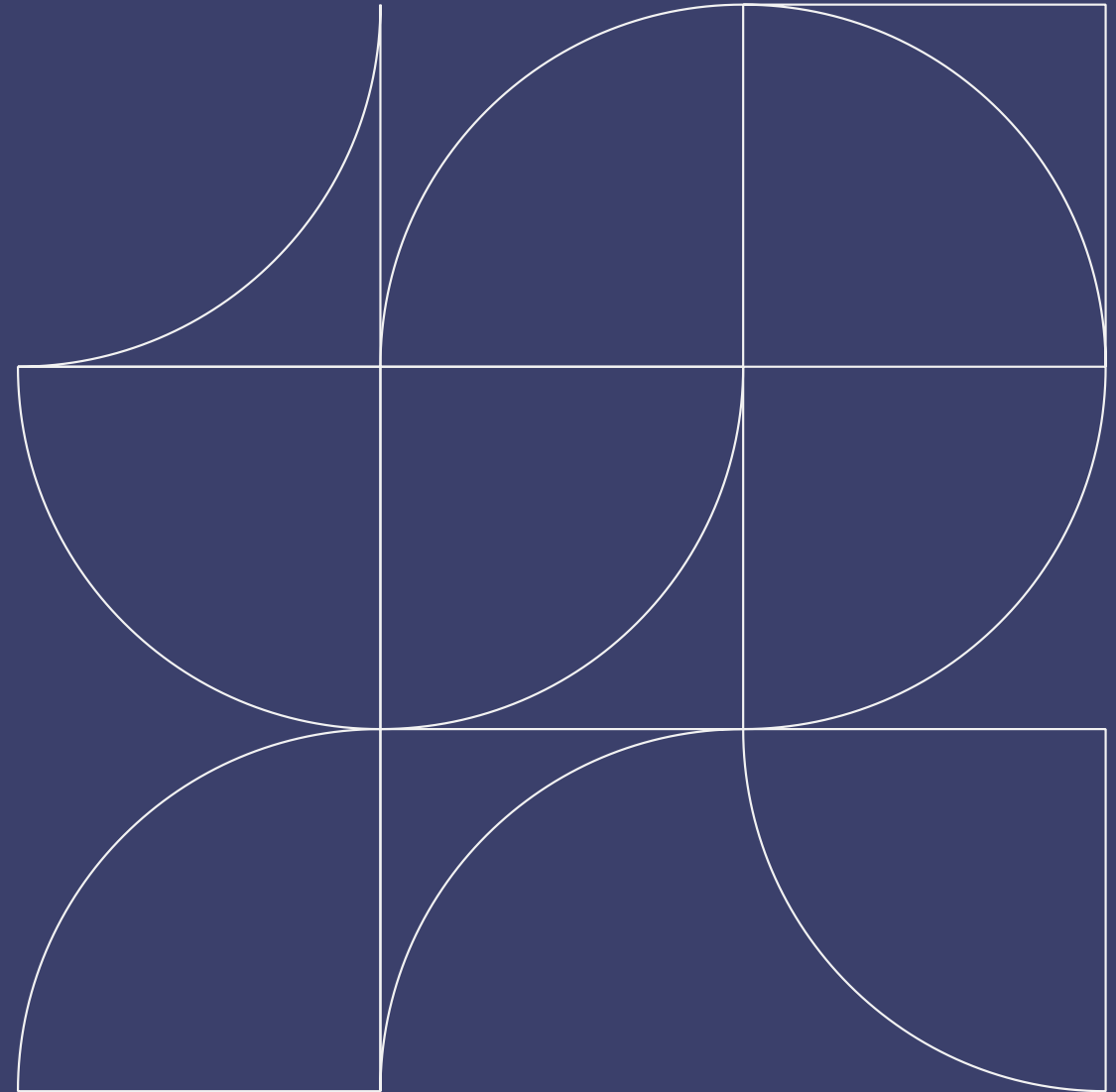


Agenda

- 1 H-1B Modernization**
- 2 Immigration Enforcement Actions**
- 3 Preparing For Worksite Visits**
- 4 DOJ's IER in the Next Four Years**



H-1B Modernization



Site Visits

FDNS Expectations

- Increase in frequency
- Onsite visits
- Queries
- Remote Workers
- Post Modernization rules for end clients
- Other considerations:
 - Criminal investigations
 - What about F-1 students?

New Form I-129

- What are you signing? What are you agreeing to? Who is agreeing to what?
- Time to review your **service agreements**
- Consultant or end client or both
 - Understand obligations
 - Protect your assets
 - Have a process

By filing this petition, I agree to the conditions of H-1B or H-1B1 employment and agree to fully cooperate with any compliance review, evaluation, verification, or inspection conducted by USCIS. I understand that USCIS access to the petitioning organization's headquarters, satellite locations, or the location where the beneficiary works or will work, including **third-party** worksites, is vital for the purpose of determining compliance with H-1B or H-1B1 requirements. I understand that USCIS' inability to verify facts, including due to the failure or refusal of the petitioner or third party to cooperate in an inspection or other compliance review, may result in denial or revocation of the approval of this petition or any H-1B petition for H-1B workers performing services at the location or locations that are a subject of inspection or compliance review, including any **third-party** worksites.

Signature of Petitioner

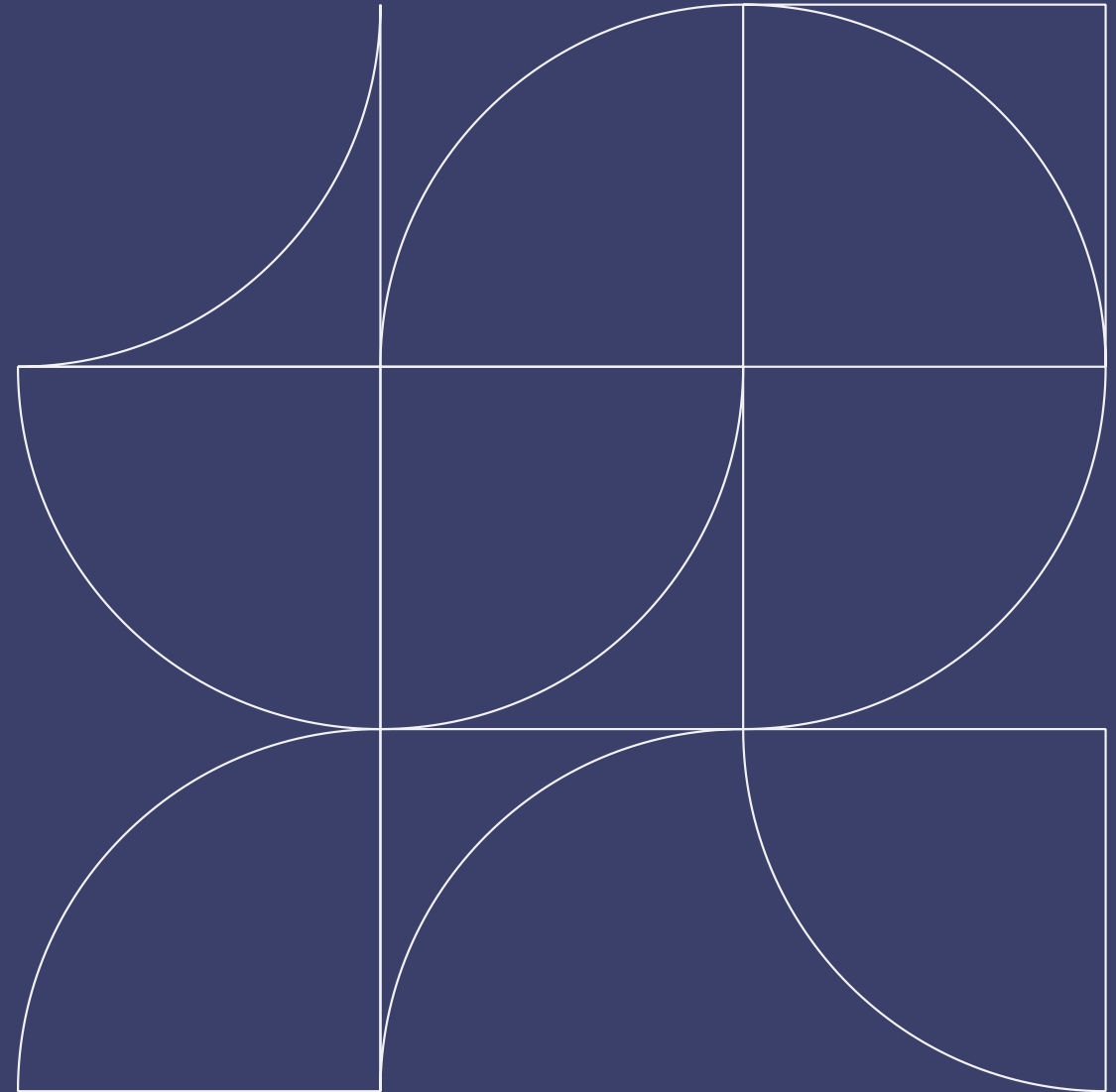


Name of Petitioner

Date (mm/dd/yyyy)

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Immigration Enforcement Actions



The Headlines

All Hands on Deck

- **Enforcement and Removal Operations (ERO)**
- Focused on criminals
 - Collateral damage
 - Border Czar Homan refers to undocumented as having committed a crime in entering unlawfully



What to Expect For the Rest of 2025

- Tom Homan declared earlier this year, “I will run the biggest deportation force this country has ever seen” and is on his way this week to doing just that
- This follows a campaign rally statement by Stephen Miller, the incoming Deputy Chief of Staff for Policy, “America is for Americans and Americans only”
- According to the New York Times “Vice President-elect JD Vance has also said that all 11 million undocumented immigrants should prepare to leave
 - We are seeing some folks self-deport
- More uncertainty on programs
 - DACA
 - TPS
 - CHNV parole EO’s include express direction to dramatically limit the use of parole authority
 - President Biden admin had already noted no reparole process back in October

More to Come

- Phase 1
 - Thousands of arrests and detentions (limited by money and resources)
 - Watch Dr. Phil, follow ICE on “X”
 - Daily ERO actions-public security and national security threats first
- Next Phase
 - Increased Form I-9 audits
 - Worksite Enforcement Actions aka “Raids”?
 - Let’s talk logistics

Types of ICE Actions

Notice of Inspection

- Requests Forms I-9
- Three (3) days to present
- Can request an extension
- Administrative subpoena for a laundry list of business information, including no match and staffing electronic I-9 system information

Types of ICE Actions

ICE Visit Focused On an Individual

- Can come with either a judicial warrant or administrative warrants or administrative subpoena
- Remember these are not judicial warrants and therefore do not alone authorize access to private areas

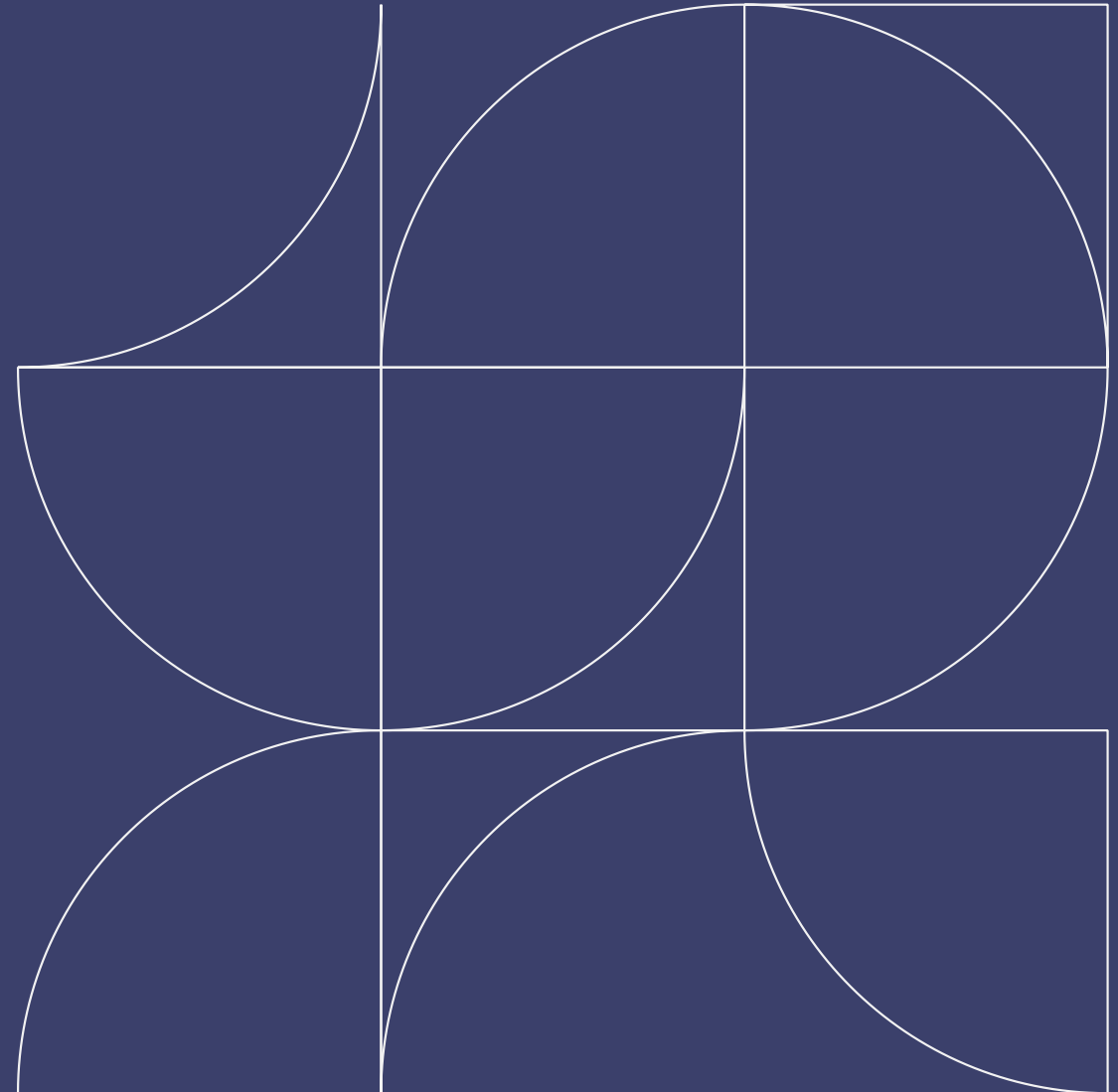
Types of ICE Actions

Worksite Enforcement Action

- Special Agents and their friends at other agencies descend upon a location, without notice
- ICE will obtain indictments, arrest and search warrants, and often a commitment from a U.S. Attorney's Office to prosecute a targeted employer before arresting employees for civil immigration violations at a worksite

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Preparing For Worksite Visits



Have a Plan

- **Make it Your Own**
 - Think calmly and realistically Incredible amount of information available- not all accurate
 - Decide on how your company or organization will respond
 - Train your staff
 - Provide instructions to the field
 - Designate and Prepare Representative Responders
- **For NOIs**
 - Do not provide I-9s immediately-you have 3 days
 - Work with experienced counsel
 - Copy everything and ensure a chain of custody
 - Review the administrative subpoena carefully, you can take more time on this part

What Type of Situation Are you Dealing with? Assess First.

- Someone should greet the agents and if possible, guide them to a **private, predetermined location** near an exit to minimize disruptions.
- **Confirm Identity**
 - Verify the **government agency** that dispatched them
 - Request **identification**, noting each agent's name, title, agency, and contact details
 - Obtain **business cards**, if available
- **Request Purpose of Visit**
 - Ask about the purpose of the visit and review any **subpoena or warrant** they present
- **Inquiry Details**
 - Determine whether the inquiry involves an **individual employee** or the **company as a whole**
- **Communicate Cooperation**
 - Inform agents that the company/organization will cooperate but has/will consult **legal counsel** to ensure proper compliance. In a raid, you will not have that luxury of time.
- **Review Official Documents**
 - Review documents **scan/share with legal counsel** (in-house or external)
 - Or take a **photo and send via text** to counsel for review

Understand the Type of Warrant

- A ***judicial warrant*** is an official court order signed by a judge or magistrate that authorizes a search of private property, seizure, or arrest based on probable cause
- A judicial warrant will:
 - Specify the specific address to be searched
 - Specify the time period in which the search must take place
 - Particularly describe the place or person, or both, to be searched and things to be seized
 - **Be issued by a court and signed by a Judge or magistrate**
- An ***administrative warrant*** is a document, issued by a federal agency like DHS purporting to document their authority to arrest a person suspected (of violating immigration law)
 - Not signed by a neutral magistrate or judge but rather an immigration officer like the Special Agent in Charge
 - An ICE administrative warrant is NOT a judicial warrant
 - ICE administrative warrants do not give ICE officials authority to enter a place where there is a **reasonable expectation of privacy**, without consent

U.S. DEPARTMENT OF HOMELAND SECURITY

Warrant for Arrest of Alien

File No. _____

Date: _____

ADMINISTRATIVE

JUDICIAL

AO 442 (Rev. 11/11) Arrest Warrant

UNITED STATES DISTRICT COURT

for the

_____ ▾

United States of America

v.

_____)
)
)
)
)
)

Case No.

Defendant

ARREST WARRANT

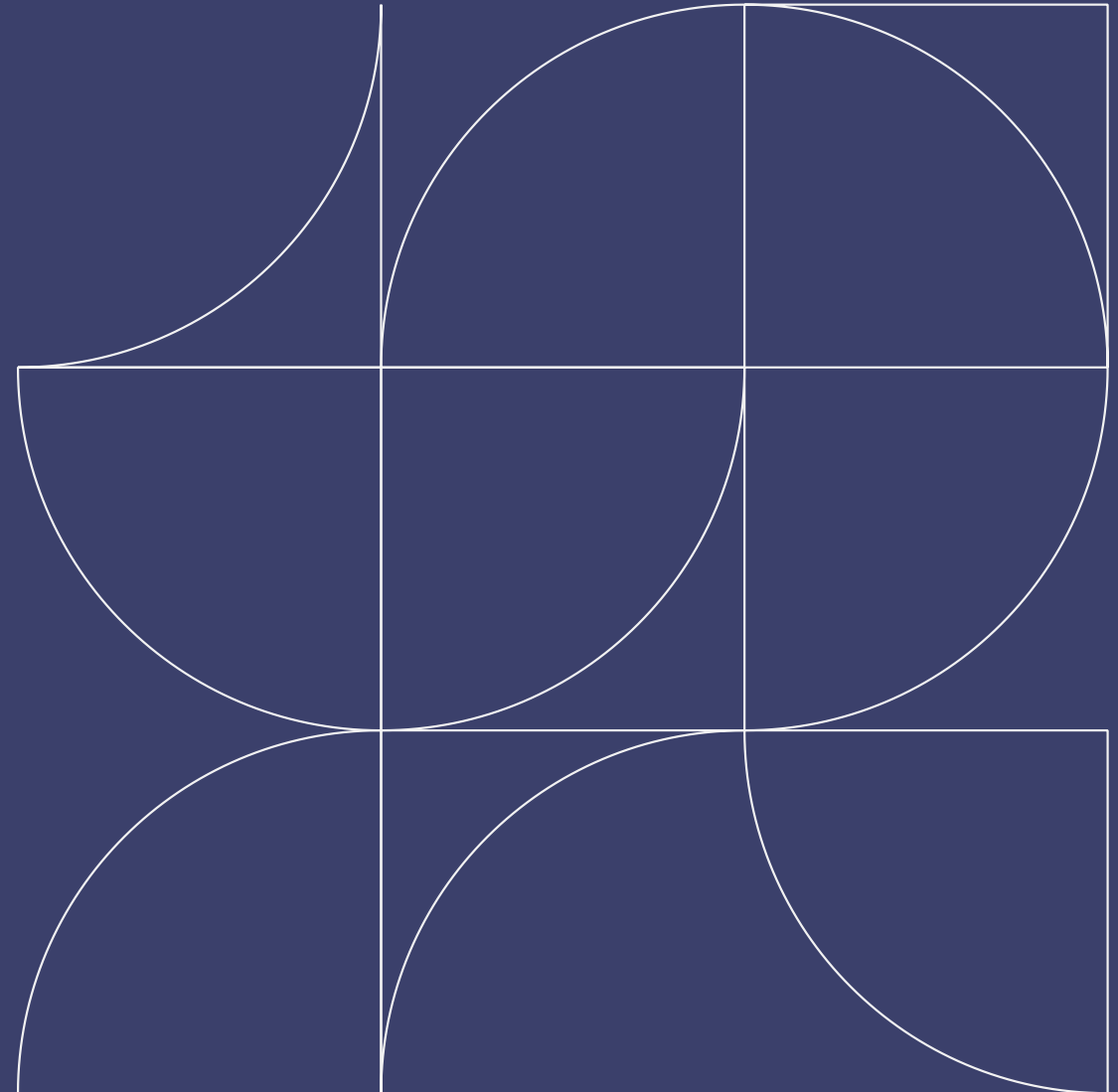
To: Any authorized law enforcement officer

What About Request for Documents?

- Administrative Subpoena
 - A request for information issued by agencies (e.g., ICE); not a court order.
 - Does not require immediate compliance and can be challenged in court
 - Compliance Steps
 - Alert designated personnel immediately upon receipt
 - Consult legal counsel to evaluate and respond appropriately
- Must be carefully reviewed before compliance
- Federal Court Warrants and Orders
 - A judicial warrant issued by a federal district or magistrate judge based on probable cause
 - Satisfies the Fourth Amendment for search, seizure, or arrest
 - Compliance Steps
 - Alert designated personnel immediately upon receipt
 - Follow internal protocols to ensure proper compliance and document same
- Must be signed by a federal district or magistrate judge to be valid

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DOJ's IER in the Next Four Years



Quick Update

- Administration is reevaluating Civil Rights of DOJ
- IER in that division, they are still open for business
- Settlements? Lawsuits?
- IER and OCAHO's authority was already being challenged prior to the new administration coming in
- What should we expect from IER?
- CAHO James McHenry is now the acting Attorney General

Seyfarth's ICE Rapid Response Team

Client Support

Your Relationship Partner

Email: **ICERapidResponse@seyfarth.com**

Phone: **888-864-2313** (888-86**ICE**13)

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Please reach out to us with any questions:

Dawn Lurie: dlurie@seyfarth.com

Mahsa Aliaskari: maliaskari@seyfarth.com